

REMARKS/ARGUMENTS

New Claims 14-35 are pending in the Application. Previously presented Claims 1-13 are all now cancelled.

New independent Claims 14 and 24 are now presented in Jepson format. 37 CFR 1.75(e). In the preamble of claims written in Jepson format, Applicant acknowledges that portion of the claimed subject matter which is well known or old in the art. See MPEP § 2129 III. Jepson Claims. The use of the Jepson format is significant in this case, because Applicant's Specification is not required to disclose subject matter which admittedly is old or known in the art. A specification need not disclose what is well known in the art. *In re Buchner*, 929 F.2d 660 (Fed. Cir. 1991); *In re Wands*, 858 F.2d 731 (Fed. Cir. 1988); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452 (Fed. Cir. 1984). "[A] patent need not teach, and preferably omits, what is well known in the art." *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367 (Fed. Cir. 1986)(emphasis added).

In new Claims 14 and 24, support for "aseptic sterilization of a foodstuff packaging material" and "an aseptic sterilization effective amount of hydrogen peroxide" is found in the Specification at page 1, 2nd and 3rd paragraphs; page 2, lines 1-3; and page 3, 5th paragraph. Support for "an amount of a foodstuff-compatible hydrogen peroxide stabilizer" is found in the Specification at page 3, 5th paragraph. Support for "at elevated temperature" is found in the Specification at page 2, 2nd full paragraph. Support for the foodstuff-compatible phosphonic acid hydrogen peroxide stabilizer is found in the Specification at page 3, 4th and 5th paragraphs. Support for the amount of stabilizer of 200-500 ppm per liter of hydrogen peroxide dip bath liquid is found in the Specification at page 4, 2nd paragraph, and page 5, Example 2. Support for "the stabilized hydrogen peroxide dip bath liquid is continuously used in the method at a temperature ranging from 70°C to 85°C for at least 16 hours" in part

(3) of new Claims 14 and 24 is found in the Specification at page 3, last paragraph; at pages 4-6, Examples 1-3; and at pages 5-6, Tables 1-3 under “Test temperature” and “Testing time”; and at page 6, Example 3, 1st paragraph, including We. Support for “without correcting for hydrogen peroxide stability loss” in new Claim 24 is found in the Specification at page 6, 1st paragraph, Example 3.

Support for new Claims 15-16 and 25-26 is found in original Claims 7-8.

Support for new Claims 17 and 28 is inherently found in the Specification in Examples 1-3, Tables 1-3, and the commercially available hydrogen peroxide solutions of types D0032 and D0035 utilized in Applicant’s Examples 1-3..

Support for the “hydrogen peroxide distillate” in new Claims 18 and 27 is found in the Specification at page 4, 4th paragraph.

Support for the hydrogen peroxide stability loss maximums at 85°C and 70°C which are specified in new Claims 19-23 and 29-33 is found in Example 1, Table 1, under types D0032 and D0035 and the respective Test temperatures.

Support for the “concentration of hydrogen peroxide in the dip bath liquid is foodstuff-compatible” in new Claims 34-35 is found in the Specification at page 3, last three paragraphs; page 1, last full paragraph, and pages 1-2, bridging paragraph.

No new matter is added.

Rejections under 35 U.S.C. § 103 over Grimberg
in view of Feasey, optionally further in view Vogele

Previously presented Claims 4, 7, and 11 were finally rejected under 35 U.S.C. § 103 over Grimberg (U.S. Patent 5,609,821, issued March 11, 1997) in view of Feasey (U.S. Patent 5,130,053, issued July 14, 1992). Office Action dated March 9, 2010 (OA), page 3, Paragraph 4). Previously presented Claim 8, which required maintenance of the dip bath at a temperature of 80 to 85°C, was finally rejected under 35 U.S.C. § 103 over Grimberg in view of Feasey, and further in view of Vogele (U.S. Patent 4,104,024, issued August 1, 1978)(OA,

p. 4, ¶ 5). New independent Claims 14 and 24 are now both directed to admittedly known processes of aseptic sterilization of a foodstuff packing material which comprise passing the packaging material through a dip bath liquid comprising an effective amount of hydrogen peroxide and a foodstuff-compatible hydrogen peroxide stabilizer at elevated temperature, which known processes are improved in that the stabilized hydrogen peroxide dip bath liquid can be and is continuously used at a temperature from 70-85°C for at least 16 hours, in particular without correcting for the unacceptable hydrogen peroxide stability loss which conventionally occurs in the process over at least 16 hours of continuous use at elevated temperatures.

The improved stability of a stabilized hydrogen peroxide dip bath liquid used in the known method and its resultant continuous effective use for at least 16 hours at elevated temperature without correcting for hydrogen peroxide stability loss is accomplished by adding an amount of phosphonic acid stabilizer of from 200-500 ppm per liter of hydrogen peroxide dip bath liquid including hydrogen peroxide concentrations conventionally employed in the known process and maintaining the temperature of the dip bath liquid from 70-85°C. Applicant's Specification teaches that representative effective concentrations of hydrogen peroxide in dip bath liquids used in the known process are conventionally from 32-35%. Grimberg corroborates that teaching (Grimberg, col. 3, ll. 33-38):

The concentration of hydrogen peroxide in the aqueous solution is an amount effective to disinfect or sterilize the article to be treated and advantageously ranges between 15% and 70%, by weight, preferably between 30% and 40% by weight, and more preferably this concentration is about 35% by weight.

Applicant's new dependent claims further limit (1) the temperature of the dip bath liquid to from 80-85°C (New Claims 16 and 26); (2) the hydrogen peroxide concentration in the dip bath liquid to 32-35% (new Claims 17 and 28); (3) the hydrogen peroxide concentration in the dip bath liquid to that of a distillate (new Claims 18 and 27); (4) the concentration of hydrogen peroxide in the dip bath liquid to that which is foodstuff-compatible (new Claims

34 and 35); and (5) the maximum percentage of stability loss of hydrogen peroxide allowed in the dip bath liquid at 85°C and 70°C (new Claims 19-23 and 29-33).

Grimberg teaches that 15-70% of high purity hydrogen peroxide solutions comprising less than 50 mg/kg, preferably between 10-30 mg/kg, of a phosphonic acid stabilizer have such improved stability that they can be used effectively in spraying systems operated at hot-spraying temperatures greater than 70°C, preferably from 190-220°C, for more than a week with no observed blockage of the spraying systems (Grimberg, col. 3, ll. 29-38; col. 3, l. 59, to col. 4, l. 2; col. 4, ll. 28-35; col. 4, ll. 63-67; col. 5, ll. 31-32). To show the improvement in time over which hydrogen peroxide solutions employing a phosphonic acid stabilizer may be used in spraying systems with no blockage of the spraying system in comparison to the time over which hydrogen peroxide solutions employing other known stabilizers may be used in spraying systems with no blockage of the spraying system, Grimberg compared a 35% hydrogen peroxide solution stabilized with 26 mg/kg of amino-tris-methylenephosphonic acid (Example 1) and a 35% hydrogen peroxide solution stabilized with 26 mg/kg of AHEP (Example 4) to a 35% hydrogen peroxide solution stabilized with 9 mg/kg of a 40% aqueous sodium stannate solution and (Comparative Example 2) and a 35% hydrogen peroxide solution stabilized with 18 mg/kg of sodium pyrophosphate acid and 2.2 mg/kg of a 40% aqueous sodium stannate solution (Comparative Example 3). Grimberg's inventive Examples 1 and 4 showed no blockage in the spraying system after more than a week of use. On the other hand, comparative Examples 2 and 3 showed blockage at the end of 35 and 45 hours respectively.

More pertinent to the currently claimed methods, in its Example 5 (Grimberg, col. 5, ll. 43-53), Grimberg compared the relative loss of hydrogen peroxide content from 35% hydrogen peroxide solutions with and without addition of the stabilizing agents and amounts thereof employed in inventive Examples 1 and 4 and comparative Examples 2 and 3 after 16

hours at 96°C. Without the addition any one of the stabilizing agents, the stability loss at 96°C was 5.4%. With the addition of 26 mg/kg of amino-tris-methylenephosphonic acid (inventive Example 1), the reported stability loss was 1.1%. With the addition of 9 mg/kg of a 40% aqueous sodium stannate solution (comparative Example 2), the reported stability loss was 1%. With the addition of 18 mg/kg of sodium pyrophosphate acid and 2.2 mg/kg of a 40% aqueous sodium stannate solution and (comparative Example 3), the reported stability loss was 3%. With the addition of 26 mg/kg of AHEP (inventive Example), the reported stability loss was 1.1%.

While Grimberg's teaching is primarily directed to stabilized hydrogen peroxide solutions for application by a spraying system at temperatures greater than 70°C, preferably 190-220°C (Grimberg, col. 3, ll. 59-66), and Grimberg's Examples 1-4 apply various stabilized 35% hydrogen peroxide solutions exclusively by spraying at 200°C (Grimberg, col. 4, ll. 58-59), the Examiner points to Grimberg's Description of Related Art to make the PTO's case for obviousness (OA, p. 3, 2nd ¶). There, Grimberg teaches (Grimberg, col. 1, ll. 18-30; emphasis added):

It is known that disinfection or sterilization of articles such as food products or packaging materials such as packagings for . . . foodstuffs can be carried out by means of aqueous hydrogen peroxide solutions. In this regard, the article to be treated can, for example, be soaked in a bath comprised of an aqueous hydrogen peroxide solution or the article can be sprayed by means of such an aqueous solution.

Generally, for best efficiency, the aqueous hydrogen peroxide solution which is utilized is hot.

Spraying processes permit optimum contact of the aqueous hydrogen peroxide solution with all the surfaces of the treated article.

However, Grimberg strongly suggests that the stabilizing effect of phosphonic acid stabilizers in prior art hydrogen peroxide solutions applied by dipping in treatment baths cannot be compared to the stabilizing effect of phosphonic acid stabilizers in hydrogen peroxide solutions applied hot by spray systems (Grimberg, col. 2, ll. 3-7). Grimberg recognizes that

hydrogen peroxide solutions which are “not free from carbon compounds and metals” do not have the same or substantially the same properties, oxidation activity, and/or sterilizing effect as the high purity hydrogen peroxide solutions Grimberg invariably applies using its spraying systems (Grimberg, col. 2, ll. 40-41; col. 3, ll. 42-44; col. 3, ll. 51-58; col. 4, ll. 11-12; col. 4, ll. 36-44). Grimberg’s sprayable hydrogen peroxide solutions are all high purity hydrogen peroxide solutions which appear to remain high purity hydrogen peroxide solutions over the entire period they are used.

Accordingly, the Examiner’s argument that persons having ordinary skill in the art reasonably would have expected that hydrogen peroxide solutions for use in dip bath liquid sterilization processes would be stabilized by the addition of phosphonic acid stabilizers in the same or similar manner, with the same or similar effect, and to the same or similar extent as are hydrogen peroxide solutions applied in sterilization processes which are applied from a spray system is clearly erroneous. Persons having ordinary skill in the art reasonably would have expected that stabilized hydrogen peroxide solutions continuously used in dip bath liquid sterilization processes would not be as pure as high purity hydrogen peroxide solutions applied by a spray system over the same period of continuous use, would be continuously contaminated in use unlike high purity hydrogen peroxide solutions applied by a spray system over the same period of continuous use, would not be stabilized to the same or similar extent by phosphonic acid stabilizers as high purity hydrogen peroxide solutions applied by a spray system over the same period of continuous use, and would not be as functionally effective as high purity hydrogen peroxide solutions applied by a spray system over the same period of continuous use. Consistent with Grimberg’s teaching, Applicant’s Specification instructs (Spec., p. 2, 3rd and 4th full ¶¶; emphasis added):

[I]n the spray process the hydrogen peroxide used should for process-related reasons contain only a few “inert materials”, which very largely originate from the stabilizers used because in the spray process the “inert materials” result in incrustations . . . which necessitates cleaning

In the dip bath process the germicidal process takes place in a bath filled with hydrogen peroxide. For this, the packaging material is passed through a temperature-controlled bath As a result of the process, therefore, the hydrogen peroxide used must be more highly stabilized than the product used in the spray process

Therefore, it was entirely unexpected that phosphonic acid stabilizers would continue to have a substantial stabilizing effect on the hydrogen peroxide solutions employed in dip bath liquids used for aseptic sterilization of a foodstuff packaging material after at least 16 hours of continuous use and continuously increasing contamination in the form of packaging material residues, especially when the phosphonic acid stabilizers are added to the hydrogen peroxide dip bath liquid in amounts significantly different from those amounts preferred by Grimberg for stabilization of pure hydrogen peroxide solutions at 96°C over the same 16 hour period of time (Grimberg, col. 5, Example 5). Moreover, Applicant surprisingly found that “contaminated hydrogen peroxide treated in accordance with the invention behaves substantially more stably even at higher temperatures [(e.g., 70-85°C)] compared with standard quality hydrogen peroxide” (Spec., p. 4, 1st ¶; p. 6, Table 3) when “[t]he amount of stabilizer necessary for the stabilization of hydrogen peroxide is from 200 to 500 ppm[/liter of hydrogen peroxide]” (Spec., p. 4, 2nd ¶; p. 6, Table 3).

To fairly consider the patentability of the method Applicant now claims over the previously applied prior art, the Examiner should take a very close look at the comparative evidence of record.

Grimberg’s Example 5 shows that 35% of pure hydrogen peroxide solutions without stabilizer had a 5.4% stability loss at 16 hours at 96°C. Applicant’s Table 2 shows that 35% of contaminated hydrogen peroxide solutions without stabilizer had a 6% stability loss at 16 hours at 70°C and a 23% stability loss at 16 hours at 85°C. This comparative evidence shows that the stability of Grimberg’s pure sprayable hydrogen peroxide solutions without stabilizer is significantly better than the stability of Applicant’s contaminated hydrogen peroxide dip

bath liquid without stabilizer even at a temperature of 96°C which is substantially higher than the 70-85°C range required for Applicant's claimed process.

Grimberg expressly requires the addition of amounts of phosphonic acid stabilizer less than 50 mg/kg, preferably 10-30 mg/kg of stabilizer (Grimberg, col. 3, ll. 29-32), and utilizes 26 mg/kg of amino-tris-methylene phosphonic acid (ATMP) stabilizer in its Example 1 (Grimberg, col. 4, ll. 55-59). The maximum amount of phosphonic acid stabilizing agent that Grimberg allows is substantially different than the minimum amount of 200 ppm phosphonic acid stabilizer required by Applicant's claimed process. Applicant's Tables 1 and 2 reasonably establish that amounts of phosphonic acid stabilizer significantly below 200 ppm would not substantially improve the stability of hydrogen peroxide dip bath liquids after 16 hours of continuous use in conventional methods for aseptic sterilization of a foodstuff packaging material.

Applicant's Table 3 additionally shows that a temperature reduction of Grimberg's high purity hydrogen peroxide solutions including the ATMP stabilizer from 96°C to 85°C, from 85°C to 70°C, and from 96°C to 70°C has no apparent effect on the stability loss of Grimberg's pure hydrogen peroxide solutions after 16 hours. However, Table 3 surprisingly shows that reducing the temperature of Applicant's contaminated hydrogen peroxide solutions including 250-500 ppm of the ATMP stabilizer from 96°C to 85°C, from 85°C to 70°C, and from 96°C to 70°C has a significant effect on reducing the stability loss of the hydrogen peroxide dip bath liquid after 16 hours of continuous use.

The comparative evidence in Applicant's Specification shows that the stability and functional effect of Grimberg's high purity hydrogen peroxide solutions stabilized with a phosphonic acid stabilizer would not be significantly affected by reducing the temperatures of the solutions lower than 96°C (Spec., p. 6, Table 3). In addition, persons having ordinary skill in the art reading Grimberg's disclosure reasonably would not have expected to

significantly improve the stability of high purity hydrogen peroxide solutions stabilized by a phosphonic acid stabilizer by increasing the amount of the stabilizer employed above 50 ppm to Applicant's claimed 200-500 ppm. Thus, the Examiner's argument that persons having ordinary skill in the art reasonably would have been led by Grimberg's teaching relating to the stability of pure sprayable hydrogen peroxide solutions stabilized by a phosphonic acid stabilizer to expect that reducing the temperature of a hydrogen peroxide solution which is repeatedly and increasingly contaminated in use as a dip bath liquid to the range of 70-85°C and increasing the concentration of the phosphonic acid stabilizer in the hydrogen peroxide dip bath liquid which is repeatedly and increasingly contaminated in use as a dip bath liquid would improve the stability loss in the dip bath liquid over 16 hours of continuous use is contrary to the overwhelming weight of the evidence of record. Teaching away and unexpected results are strong indications of nonobviousness. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007); *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984).

To remedy all the apparent deficiencies in Grimberg's disclosure, the Examiner relies on Feasey. The Examiner states (OA, p. 4, 2nd full ¶):

Feasey discloses a composition of hydrogen peroxide and phosphonic acid and teaches that the concentration of phosphonic acid varies between 50 to 1000 ppm, because this concentration range of between 50 to 1000 ppm for phosphonic acid is found to be most effective (col. 7, example 5) and is further dependent on the intended use (col. 4, lines 40-58).

In view of Feasey's disclosure, the Examiner concludes that it would have been obvious "to widen Grimberg's concentration range of phosphonic acid to a different concentration range as taught by Feasey" (OA, p. 4, 2nd full ¶).

First, the stabilized hydrogen peroxide solutions employed in Feasey's Example 5 are 3% hydrogen peroxide solutions which are stored and used at ambient temperature for subsequent use for sterilizing contact lenses. The hydrogen peroxide concentration in the 3% hydrogen peroxide solution of Feasey's Example 5, its temperature in storage and use, and its

non-continuous and non-repetitive utility for sterilizing contact lenses are all far outside the scope of the process Applicant now claims. There is little or no likelihood that Feasey's 3% hydrogen peroxide solution would ever be continuously and repeatedly used for 16 hours at temperatures ranging from 70°C to 85°C. There is even less likelihood that a 3% hydrogen peroxide solution would be increasingly contaminated by foodstuff packaging residues over 16 hours of continuous use in sterilizing foodstuff packaging materials. The process of Feasey's Example 5 has little or no relationship to the process Applicant now claims. The process of Feasey's Example 5 would rarely be used more than once. In addition, the ratio of hydrogen peroxide in a 3% hydrogen peroxide solution to the amount of stabilizer in the solution reasonably would appear to a person having ordinary skill in the art to be far outside the ratio of the amount of hydrogen peroxide to the amount of stabilizer required in dip bath liquids (preferably 30-40% hydrogen peroxide) conventionally employed to sterilize foodstuff packaging material (Grimberg, col. 3, ll. 33-38).

While Feasey appears to contemplate stabilizing 25-85% hydrogen peroxide solutions with 50-5000 ppm of various kinds and combinations of stabilizing agents, including phosphonic acid stabilizing agents, during extended storage and subsequent transport for subsequent dilution for preparation of, and/or for use in concentrated form as, metal-treatment solutions, extraction and separation solutions, disinfect solutions, and bleaching solutions in various processes (Feasey, col. 4, ll. 13-58), Feasey does contemplate or reasonably suggest that any of its hydrogen peroxide solution would ever be continuously subjected to temperatures from 70-85°C for 16 hours in storage, transport, or use, or would ever be continuously contaminated by debris and/or packaging material residues during 16 hours of continuous use. To the contrary, Feasey's exemplified hydrogen peroxide solutions are stored at 20-25°C in Example 3 (Feasey, col. 6, ll. 31-35), at ambient temperature in Example 5 (Feasey, col. 7, ll. 19-22), and at 32°C in Example 6 (Feasey, col. 7, ll. 40-44).

In short, Feasey would not have reasonably provided persons having ordinary skill in the art with any teaching, suggestion, incentive, or motivation to increase the concentration of a phosphonic acid stabilizer added to a hydrogen peroxide solution useful in any process disclosed and/or reasonably suggested in Grimberg continuously in use at a temperature of 70-85°C. More importantly, Feasey does not reasonably provide persons having ordinary skill in the art with any teaching, suggestion, incentive, or motivation to increase the concentration of a phosphonic acid stabilizer added to a hydrogen peroxide solution reasonably suggested in Grimberg for continuous use as a dip bath liquid at a temperature ranging from 70-85°C for at least 16 hours in a known method for aseptic sterilization of a foodstuff packaging material which comprises passing the packaging material through a dip bath liquid comprising an aseptic sterilization effective amount of hydrogen peroxide and an amount of a foodstuff-compatible hydrogen peroxide stabilizer at elevated temperature. To sustain a conclusion of obviousness under 35 U.S.C. § 103, the prior art must provide a suggestion to do what Applicant has done with reasonable expectation of success. *In re O'Farrell*, 853 F.2d 894, 903 (Fed. Cir. 1988).

Applicant faced and solved the problematic loss of stability of hydrogen peroxide solutions conventionally used in a known process for aseptic sterilization of a foodstuff packaging material which comprises passing the packaging material through a dip bath liquid comprising an aseptic sterilization effective amount of hydrogen peroxide and an amount of a foodstuff-compatible hydrogen peroxide stabilizer at elevated temperature wherein debris and/or packaging residue continuously and increasingly contaminates the hydrogen peroxide solution, leads to heterogeneous decomposition, and causes a loss in the stability and activity of the hydrogen peroxide sterilization solution. Conventionally, the reduced activity must be corrected by replenishing the hydrogen peroxide dip bath liquid before 16 hours of continuous use in the process has expired. By the process Applicant claims, the problem

appears to be solved. Neither Grimberg, Feasey, nor any combination thereof, dealt with the problem Applicant faced. Neither Grimberg, Feasey, nor any combination thereof, reasonably suggests the solution that Applicant's claimed processes presents.

The Examiner cites Vogele for teaching that it is known to sterilize packaging material with a 30% aqueous hydrogen peroxide solution at a temperature of "about 90°C" (Vogele, col. 1, ll. 12-26) (OA, p. 5, 2nd ¶). Then, the Examiner finds that the process Vogele discloses and claims effectively utilizes hydrogen peroxide solutions at temperatures below 90°C (Vogele, cols. 3-4, Claim 1). Based on that alleged teaching, the Examiner concludes that it would have been obvious to persons having ordinary skill in the art to lower the temperature of the hydrogen peroxide dip bath liquid in a process whose utility Grimberg generally discounts to temperatures below 90°C and still effectively destroy bacteria spores (OA, p. 5, 2nd ¶). The problem with the Examiner's conclusion is that Vogele himself recognizes that hydrogen peroxide solutions are conventionally used at a temperature of "about 90°C" to sterilize packaging materials, and when used at a temperature of "about 90°C" to sterilize packaging materials, the conventionally used hydrogen peroxide solutions are not stable. Vogele teaches (Vogele, col. 1, ll. 15-24; emphasis added):

In known processes, the packaging material is sterilized by an approximately 30% solution of hydrogen peroxide at a high temperature (about 90°C.). Such a process should destroy all bacteria spores which could spoil the food or lead to poisoning. However, the heating required for such a process is complex and expensive, an the subsequent elimination of the hydrogen peroxide, when used in high concentration, may be dangerous

Moreover, contrary to the Examiner's finding that Vogele teaches destruction of bacteria spores conventionally at temperatures below 90°C, Vogele in fact teaches (Vogele, col. 3, ll. 18-22; emphasis added):

Table 1 relates to conventional sterilization using an approximately 30% aqueous solution of hydrogen peroxide. It can be seen from this Table that only at very high temperatures [i.e., 90°C,] is a satisfactory R value obtained.

Thus, Vogeles would have taught persons having ordinary skill in the art not to sterilize foodstuff packaging materials using hydrogen peroxide solutions at temperatures below 90°C because bacteria spores are not destroyed at temperatures below 90°C. This is strong teaching away from the sterilization process Applicant claims which is carried out continuously at 70-85°C for at least 16 hours, in particular without correcting for hydrogen peroxide stability loss.

The Examiner's finding that conventional processes employing hydrogen peroxide solutions are known to be effective for destroying bacterial spores at temperatures below 90°C is clearly erroneous. Vogeles teaches that hydrogen peroxide solutions are only effective "at a temperature below 90°C to deactivate any remaining active chlorine" which was initially used in the two-step process employing chlorine in the first step that Vogeles invented, discloses, and claims for sterilizing packaging material. See Vogeles' Claim 1, column 4, lines 6-11.

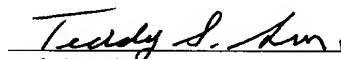
Contrary to the Examiner's conclusion of obviousness, Vogeles reasonably would have led persons having ordinary skill in the art reasonably to expect that the processes Applicant claims using a stabilized hydrogen peroxide dip bath liquid at 70-85°C cannot be effectively used to sterilize foodstuff packaging material. Vogeles would have undermined any spurious suggestion to make and use the process Applicant claims using hydrogen peroxide dip bath liquid at 70-85°C in view of the combined teachings of Grimberg and Feasey because there would have been no reasonable expectation of successfully sterilizing the foodstuff packaging materials at the lower hydrogen peroxide dip bath liquid temperature.

Application No. 10/804,186
Reply to Office Action of March 9, 2009

For the reasons stated, Applicant's new Claims 14-35 are patentable over the previously applied prior art and otherwise in condition for allowance. Thus, early Notice of Allowance is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Richard L. Treanor
Attorney of Record
Registration No. 36,379

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Teddy S. Gron
Registration No. 63,062